



Flathead County
Planning & Zoning
1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ ^{2,000.00} ~~2305.00~~

APPLICANT/OWNER:

1. Name: Gerald Penney, Bartley and Ardith Tillotson, Barbara Penney, and Thomas Penney Phone: (406) 314-0494 (Gerald Penney)
2. Mail Address: P.O. Box 8892
3. City/State/Zip: Kalispell, MT 59904
- 4 Interest in property (if map amendment): Owners

Check which applies: ☒ Map Amendment ☐ Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: 1100, 1130, 1150, and 1170 Hodgson Road
- B. Legal Description: Tract 1, 2, 3, 4 of COS 12126 (See Attached Metes and Bounds)
(Lot/Block of Subdivision or Tract #)
28 - T30N - R21W
Section Township Range
(Attach sheet for metes and bounds)
- C. Total acreage: 40.114 acres
- D. Zoning District: Highway 93 North Zoning District
- E. The present zoning of the above property is: SAG-10 (Suburban Agricultural)
- F. The proposed zoning of the above property is: R-2.5 (Rural Residential)
- G. State the changed or changing conditions that make the proposed amendment necessary: The owners of the property are long time residents of the Valley

and the Jay Penney, the owners father, farmed this area for many years. In 1995 after Jay Penney's death, this 40 acres was split into four parcels by the Estate so that 10 acres could go to each of the three children and one parcel was retained by the wife Barbara Penney. Gerald Penney now has a son that he would like to pass a portion of the family property to so that the son can build a house and be close to his relatives. This particular property has been zoned SAG-10 by the Highway 93 North Zoning District since its creation back in 1991. Since that time the Plantation Pines Subdivision, just west of the applicants property, was developed using clustering provisions of the zoning ordinance to create small lots of one to two acres in exchange for establishing open space areas. Properties just across Hodgson Road to the north and along Hodgson Road towards the west where never zoned and those lots continue to be subdivided creating the rural residential land use pattern similar to the requested zoning.

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The property is not located within a "Neighborhood Plan" that provides guidance on Land Use decisions. The property is located within the influence of the Flathead County Growth Policy which was updated in the fall of 2012.

The following Goals and Objectives of the Flathead County Growth Policy support the proposed Map Amendment.

Chapter 2: Land Use

G.4 Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility

The proposed map amendment will change approximately 40 acres from SAG-10 to R-2.5. The Penney family has had this property for several generations and the Penney's father farmed much of the area around the subject property. The reason for the requested zone change is that Gerald Penney would like to "gift" 2.5 acres of this land to his son so that he can live on the property his father grew up on. Although there are still active

agricultural operations in the neighborhood, there is also change that reflects small parcels similar to what is requested in this Map Amendment. The Penney Family with roots in agriculture and the land they grew up on will continue to respect the agricultural practices that occur in the Flathead Valley.

p.4.3. Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provisions of government services (law enforcement, fire protection, transportation, etc.)

The proposed map amendment will establish a 2.5 acre gross density for "rural residential" development over the 40 acres in question. The property is located along Hodgson Road, which is a paved County Road providing connection to Whitefish Stage, Highway 93, and Highway 2. The Whitefish Fire District established a fire hall at the intersection of Whitefish Stage and Hodgson Road just over ten years ago and the station is located ¼ mile from the subject properties. Law enforcement is provided by the Flathead County Sheriff's Office which is headquartered in Kalispell. Police protection is good in Flathead County but because of the vast size of the County, response times may be slow. The proposed text amendment will preserve the agricultural character of this neighborhood while allowing another generation of this family to live where the family grew up and farmed.

2. Is the proposed amendment designed to:

a. Secure safety from fire and other dangers? The subject property is not mapped within the designated Wildland Urban Interface (Source - Flathead County GIS). The property is not mapped within the 100-year Floodplain (FIRM Panel 1410G). The topography is gentle with no steep slopes.

b. Promote public health, public safety and the general welfare? The property accesses Hodgson Road Stage which is a paved collector road capable of handling the increased residential use. The Flathead County Sheriffs Office provides police protection and the Whitefish Rural Fire Service Area provides fire protection. The proposed R-2.5 zoning classification provides the same setback and height standards as the

existing SAG-10 zone and very similar land use restrictions. The zoning limitations of the proposed R-2.5 will promote public health, public safety, and general welfare.

- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The subject property will be serviced by individual sewer and water systems. The septic system application (approved 4/3/1997) for Gerald Penney's house indicates that the groundwater is greater than seven feet, which typically means that this was as deep as they dug the test hole. The medium course sand described in the septic application is ideal material for drainfield construction. Water wells are good in this area and Penney's are able to irrigate their pasture with their well. The subject zone change area is located on Hodgson Road which is a collector that is paved and maintained by the County. Hodgson Road connects Highway 93 on the west and Highway 2 on the east. Whitefish Stage Road, a major north-south collector, is located just a ¼ mile to the west. The property is within the Whitefish School District. The Whitefish School District completed a major remodel of Central School approximately seven years ago and votes just approved a School Bond to complete a major remodel of the High School Facility. While the School District has been investing in its infrastructure, the overall trend in the district is a declining enrollment. The Flathead County Statistical Report of Schools 2012, prepared by the County Superintendents Office, shows an decrease of enrollment in the Whitefish Elementary Schools of 8% over the last ten years and a decrease of 29% in the High School over the same period. In general, larger lots like the 2.5 acre proposed density require less park land than more urban densities. This statement is supported by the dedication requirement of the Subdivision Regulations. However, there are parks and recreation programs available in Whitefish, Columbia Falls, and Kalispell for residents of this neighborhood.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The proposed "Rural Residential" designation has a minimum lot size of 2.5 acres and identical setbacks to the SAG-10 that the applicants propose to replace.

The Plantation Pines subdivision directly to the west utilized the cluster provisions in the zoning ordinance to create lots with a 2.65 acre average size. The properties north of Hodgson Road are Unzoned and can have any density. Therefore the propose R-2.5 does provide adequate light and air both in terms of density and setback standards.

- b. The effect on motorized and non-motorized transportation systems? The four parcels have access to an 40-foot internal easement that was created by Court Decree, when Jay Penney passed away and the property was given to his wife and children. The 40-foot easement intersects Hodgson Road which ties into the two major arterials in Flathead County, Highway 2 and Highway 93. As the area is rural, there are no sidewalks or pedestrian trails in the area. The proposed zone change should not have a negative effect on the transportation systems.
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is not located within close proximity of a City or town. The applicants are requesting a "Rural Residential" zoning classification and not a "urban" classification. There is an urban zoning district one and a half miles to the west in Happy Valley. Happy valley is zone R-2 (Residential) with ½ acre minimum lots sizes.
- d. The character of the district and its peculiar suitability for particular uses? The subject parcels are in 10 acre tracts. There is hay production, some horse pasture, and some tree farming on the 40-acre map amendment. Directly west of the property is the Plantation Pines(SAG-10) development, which used a cluster provision to create lots with a 2.6 acre average in exchange for creating open space areas. The property to the south is in agricultural production (AG-40) and is part of a large holding. The property to the east is a mix of small (2.5 acres) and large tract (15+ acres) suburban residential properties (SAG-10). The property to the north is mix of large tract properties but the area north of Hodgson is Unzoned. The properties north west of the proposed zone change consist of Country Lake Homes (Mallard Loop) and Martin Subdivision (Scholar Lane) with one acre lots (R-1 and SAG-10 Zoning).

The subject property is in proximity (one mile) of AG-40, SAG-10, SAG-5, R-1, R-2, and Unzoned parcels.

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The permitted and conditionally permitted uses of the proposed Zoning designation of R-2.5 are almost identical to that of the existing SAG-10 zoning classification. Of the permitted uses the only major difference is that the R-2.5 does not allow commercial dairies or commercial stables, riding academies or rodeo areas but it does allow all other forms of agricultural use. In the conditionally permitted section the R-2.5 would preclude contractor storage yards, extractive industries, and dog kennels but all other uses are essentially the same. The proposed zoning will conserve the value of neighboring structures as they are the same.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The nearest City Zoning is the Whitefish Extra-Territorial Zoning Planning/Zoning Jurisdiction which is approximately one mile north. The Whitefish Zoning in the southern end of their jurisdiction is WA (Agricultural 15 acre minimum lots sizes) and WCR (County Residential with a 2.5 acre minimum lots size). The Whitefish zoning is compatible with the R-2.5 (Rural Residential) for both land use and density.

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Gerald S. Penney
Owner/Applicant Signature(s)

1-22-13
Date

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Barbara S Penney By Gerald S Penney 1-22-13
Owner/Applicant Signature(s) PR Date

JAN 31 2013

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Tom Penney
Owner/Applicant Signature(s)

1-21-13
Date

JAN-22-2013 TUE 09:07 AM SANDS SURVEYING

FAX NO. 4067556488

P. 08

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.


Owner/Applicant Signature(s)


1/28/2013
Date 1/28/13

JAN 31 2013